

**FILED**

**FEBRUARY 1, 2010**

KAREN S. MITCHELL  
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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TIMOTHY WALLACE, PRO SE,	§	
also known as	§	
TIMOTHY RANDOLPH WALLACE,	§	
TDCJ-CID No. 894160,	§	
Previous TDCJ-CID No. 328415,	§	
Previous TDCJ-CID No. 537868,	§	
Previous TDCJ-CID No. 739841,	§	
Dallas County Jail no. 98003682,	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:09-CV-0289
	§	
BRAD LIVINGSTON,	§	
LEON GUINN,	§	
WILLIAM GONZALEZ, and	§	
ALLEN POLUNSKI,	§	
	§	
Defendants.	§	

**REPORT AND RECOMMENDATION**

Plaintiff's Civil Rights Claims in this cause were severed and were received by the Clerk on December 7, 2009, by transfer from the United States District Court for the Northern District of Texas, Abilene Division, to the United States District Court for the Northern District of Texas, Amarillo Division. Plaintiff has been temporarily granted permission to proceed in forma pauperis contingent on his cure of identified defects.

On December 16, 2009, the Court issued an Order and Notice of Deficiency giving plaintiff thirty days in which to pay the filing fee or submit an application to proceed in forma

pauperis, along with a current six-month history of his inmate trust account. On that same date, the Court also issued an Order instructing plaintiff to file an amended complaint in compliance with Rule 8, Federal Rules of Civil Procedure, and on the form provided by the Court, setting forth only those claims which occurred at the Clements Unit or in the Amarillo Division of the Northern District of Texas.

More than thirty days have elapsed since issuance of these Orders. Plaintiff's only response has been to file a motion to rescind the order of the United States District Court for the Northern District of Texas, Abilene Division, severing his claims in this cause and transferring them to this Court. That motion was dismissed from this cause by Order issued January 11, 2010. No further pleadings or correspondence have been received from plaintiff in this cause. It appears plaintiff has abandoned his claims or refuses to comply with the Orders of the Court.

### **CONCLUSION**

For the reasons set forth above, it is the RECOMMENDATION of the Magistrate Judge to the United States District Judge that the Civil Rights Complaint by plaintiff TIMOTHY WALLACE filed pursuant to Title 42, United States Code, section 1983 be DISMISSED WITHOUT PREJUDICE FOR FAILURE TO PROSECUTE, FOR FAILURE TO COMPLY WITH AN ORDER OF THE COURT, AND FOR FAILURE TO COMPLY WITH RULE 8, FEDERAL RULES OF CIVIL PROCEDURE.

### **INSTRUCTIONS FOR SERVICE**

The United States District Clerk is directed to send a copy of this Report and

Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 1st day of February, 2010.

  
CLINTON E. AVERITTE  
UNITED STATES MAGISTRATE JUDGE

**\* NOTICE OF RIGHT TO OBJECT \***

Any party may object to these proposed findings, conclusions and recommendation. In the event parties wish to object, they are hereby NOTIFIED that the deadline for filing objections is fourteen (14) days from the date of filing as indicated by the “entered” date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(C), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(E). **Any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed** as indicated by the “entered” date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(d).

Any such objections shall be made in a written pleading entitled “Objections to the Report and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).